

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA	:	Hon. Kevin McNulty, U.S.D.J.
v.	:	Crim. No. 15-510 (KM)
PAUL FITZSIMONS,	:	CONSENT ORDER
Defendant.	:	<u>OF FORFEITURE</u>

WHEREAS, on or about September 29, 2015, defendant Paul Fitzsimons pleaded guilty pursuant to a plea agreement with the United States to an Information which charged him with conspiring to cause a domestic financial institution to fail to file a report, contrary to 31 U.S.C. § 5324(a)(1), in violation of 18 U.S.C. § 371;

WHEREAS, pursuant to 31 U.S.C. § 5317(c)(1), a person convicted of an offense in violation of 31 U.S.C. § 5324, or any conspiracy to commit such violation, shall forfeit to the United States all property, real and personal, involved in the offense, and all property traceable to such property;

WHEREAS, in the plea agreement, the defendant consented to the criminal forfeiture of \$77,085, a sum of money representing the property involved in the offense charged in the Information;

WHEREAS, on or about June 15, 2017, the defendant was sentenced to, *inter alia*, _____, and criminal forfeiture in accordance with the terms of the plea agreement;

WHEREAS, defendant Paul Fitzsimons:

- (1) Consents to the forfeiture to the United States of \$77,085 as a sum of money representing the property involved in the offense charged in the Information, to which the defendant has pleaded guilty (the "Funds Subject to Forfeiture");
- (2) Agrees promptly to tender \$30,000 as part of the Funds Subject to Forfeiture to his attorneys, Biancamano Law LLC, which shall hold such Funds on behalf of the defendant and the United States, to be distributed as set forth below;
- (3) Agrees to tender by or on the 15th of each of the following eight (8) months a monthly installment of \$6,000, representing part of the Funds Subject to Forfeiture, until the entire amount of the Funds Subject to Forfeiture are provided in full, to his attorneys, Biancamano Law LLC, which shall hold such Funds on behalf of the defendant and the United States, to be distributed as set forth below
- (4) Waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of forfeiture in the charging instrument, announcement of the forfeiture in the defendant's presence at sentencing, and incorporation of the forfeiture in the Judgment of Conviction;
- (5) Acknowledges that he understands that forfeiture of property is part of the sentence imposed upon him in this case and waives

any failure by the Court to advise him of this, pursuant to Federal Rule of Criminal Procedure 11(b)(1)(J), during the plea hearing;

- (6) Waives, and agrees to hold the United States and its agents and employees harmless from, any and all claims whatsoever in connection with the forfeiture and disposal of the property described above in accordance with the terms of this Consent Order; and
- (7) Agrees that the forfeiture does not constitute an excessive fine or violate the Eighth Amendment

WHEREAS, the defendant, his counsel, and the United States further agree that:

- (1) If he has not done so already, the defendant will file an amended federal tax return for the tax year 2012 within 90 days of the date of this Consent Order;
- (2) Biancamano LLC will disburse directly to the Internal Revenue Service the amount due and owing as a result of the filing of the amended return for the 2012 tax year using funds from the Funds Subject to Forfeiture. Copies of the amended tax return and the payment will be provided to the United States at the following addresses at the time of filing, along with a cover letter containing the case number:

- i. Andrew D. Kogan
Assistant United States Attorney

United States Attorney's Office
970 Broad Street, 7th Floor
Newark, NJ 07102; and

ii. United States Attorney's Office
Asset Forfeiture and Money Laundering Unit
970 Broad Street, 7th Floor
Newark, NJ 07102

- (3) Upon receipt of IRS' final calculation of tax for the 2012 tax year and the payment of the amount due, the balance of the Funds Subject to Forfeiture shall be forfeited to the United States pursuant to 31 U.S.C. § 5317(c)(1) for disposition according to law (the "Forfeiture Amount").
- (4) Biancamano Law LLC and the defendant shall cause the Forfeiture Amount to be paid by postal money order, bank or certified check, made payable, in this instance, to the United States Department of Treasury, and delivered by mail to the United States Attorney's Office, Attn: Asset Forfeiture and Money Laundering Unit, 970 Broad Street, 7th Floor, Newark, New Jersey 07102, and shall indicate the defendant's name and case number on the face of the check. At that time, the defendant shall also provide the United States Attorney's Office, using the same address, with a copy of the IRS' final calculation of tax for the 2012 tax year.
- (5) Upon the United States Attorney's Office's receipt of the Forfeiture Amount, the defendant consents to the United States' submission and the Court's entry of an Amended Consent

Order of Forfeiture in the amount equal to the Forfeiture Amount, which shall be satisfied in full by the payment of the Forfeiture Amount.

WHEREAS, good and sufficient cause has been shown,

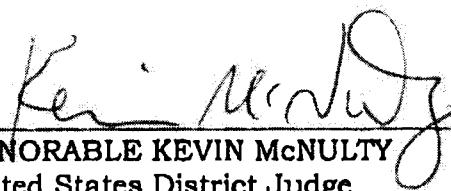
It is hereby ORDERED, ADJUDGED, AND DECREED this Order is final as to the defendant Paul Fitzsimons, shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

IT IS FURTHER ORDERED that the U.S. Department of the Treasury is authorized to deposit the Forfeiture Amount in the Treasury Forfeiture Fund, and the United States shall have clear title to such forfeited property.

IT IS FURTHER ORDERED that, if the defendant fails to tender the Funds Subject to Forfeiture in accordance with this Consent Order of Forfeiture and within the time period set forth above, pursuant to Federal Rule of Criminal Procedure 32.2(b)(3), the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate, or dispose of property to collect and forfeit the sum of \$77,085, with no part of the \$77,085 to be used for the payment of the defendant's tax liability. Such discovery may include, but not be limited to, depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

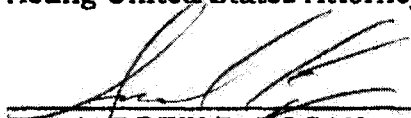
IT IS FURTHER ORDERED that this Court shall retain jurisdiction to enforce this Order and to amend it as necessary. *See, e.g.,* Fed. R. Crim. P. 32.2(e).

ORDERED this 15th day of June, 2017.



HONORABLE KEVIN McNULTY
United States District Judge

The undersigned hereby consent to the entry and form of this Order:


WILLIAM E. FITZPATRICK
Acting United States Attorney


By: ANDREW D. KOGAN
BARBARA A. WARD
Assistant United States Attorneys

Dated: 6/15/17


BIANCAMANO LAW LLC
By: STACY BIANCAMANO, ESQ.
Attorneys for Defendant Fitzsimons

Dated: 6/9/2017


PAUL FITZSIMONS, Defendant

Dated: 6/9/2017